

REMARKS

Claim Status

Applicant has amended claims 1, 4, 5, 12-14, 20-21, 24, 44, 45, 47, 62, 64, and 72; and canceled claims 19, 22, 23, 26, 29, 48, 49, and 57. Claims 2, 3, 6-11, 15-17, 25, 27, 28, 30-42, 50-56, 58-61, 63, and 65-71 were canceled by earlier amendments. Accordingly, claims 1, 4, 5, 12-14, 18, 20, 21, 24, 43-47, 62, 64, and 72 are pending and are presented for reconsideration.

All claim amendments are made without prejudice and Applicant reserves the right to pursue canceled subject matter in one or more continuing applications.

Indefiniteness

The Office rejected claims 4, 5, 12-14, 18-23, 29, 43-49, 57, 62, 64, and 72 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Claims 12, 13, 18, 19, 21-23, 29, 43-49, and 57 were rejected because they are dependent on rejected claims 4, 5, 14, 20, 62, 64, and 72. This ground for rejection is respectfully traversed and reconsideration is requested for the following reasons.

Claims 4, 5, 14, 62, and 72 were alleged to be unclear as to the structure and function of the recited "fragments." Claims 4, 5, 14, 62, and 72 have been amended to remove the recitation of "fragments."

Claim 20 was alleged to be unclear as to the structure and function of the recited "parts of the genes." Claim 20 has been amended to remove the language "parts of the genes."

Claims 19, 22, 23, 29, 48, 49, and 57 have been canceled, rendering their rejections moot.

Claim 47 was alleged to be unclear as to “epitope derived thereof.” Claim 47 has been amended to remove the language “epitope derived thereof.”

Claims 48, 49, and 57 were alleged to be unclear as to the method/process claimed. Claims 48, 49, and 57 have been canceled, rendering their rejection moot.

Claims 1, 24, and 26 were alleged to be unclear as to “RD1-2F9” and “SEQ ID NO:1.” As indicated in the Sequence Listing, SEQ ID NO:1 is the “[i]nset of cosmid RD1-2F9 corresponding to the sequence in the genome of microbacterium tuberculosis H37 Rv.” Claims 1 and 24 have been amended to clarify the issue based on this disclosure. Claim 26 has been canceled, rendering its rejection moot.

Accordingly, Applicant respectfully requests withdrawal of the rejections and reconsideration of the claims.

Claim Rejections - 35 U.S.C. § 101

The Office rejected claims 48, 49, and 57 under 35 U.S.C. § 101 as allegedly improper process claims. Claims 48, 49, and 57 have been canceled, rendering their rejection moot. Accordingly, Applicant respectfully requests withdrawal of the rejection.

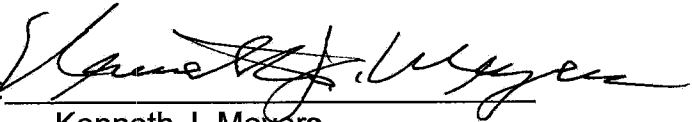
Applicant requests the entry of this Amendment, the Examiner’s reconsideration and reexamination of the application, and the timely allowance of the pending claims. The Examiner is encouraged to contact the undersigned if it is believed that it would facilitate prosecution.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 19, 2009

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